

§ 682.207

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of this section by the holder of a loan to be consolidated.

(Approved by the Office of Management and Budget under control number 1840–0538)

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1079, 1080, 1082, 1083, 1085)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 25746, May 17, 1994; 59 FR 33352, June 28, 1994]

§ 682.207 Due diligence in disbursing a loan.

(a)(1) This section prescribes procedures for lenders to follow in disbursing Stafford, SLS, and PLUS loans, other than a refinanced SLS or PLUS Program loan made under § 682.209 (e) or (f). With respect to FISL, Federal SLS, and Federal PLUS loans, references to the “guaranty agency” in this section shall be understood to refer to the “Secretary.”

(2) The requirements of paragraphs (b)(1)(ii) and (v) of this section must be satisfied either by the lender or by an escrow agent with which the lender has an agreement pursuant to § 682.408. The lender shall comply with paragraph (b)(1)(iii) of this section whether or not it disburses to an escrow agent.

(b)(1) In disbursing a loan, a lender—

(i)(A) May not disburse loan proceeds prior to the issuance of the guarantee commitment for the loan by the guaranty agency, except with the agency’s prior approval; and

(B) Must disburse a Stafford or SLS loan in accordance with the disbursement schedule provided by the school;

(ii) Shall disburse loan proceeds by—

(A) A check that is made payable to the borrower, or, if required by the guarantor or lender, is made co-payable to the borrower and the school for attendance at which the loan is intended, and requires the personal endorsement or other written certification of the borrower in order to be cashed or deposited in an account of the borrower at a financial institution;

(B) If authorized by the guarantor, electronic funds transfer to a account maintained in accordance with § 688.163 by the school as trustee for the lender, the guaranty agency, the Secretary, and the borrower, that requires the written approval of the borrower that is secured and retained by the school

for each FFEL program loan for which funds are released from the account. A disbursement made by electronic funds transfer must be accompanied by a list of the names, social security numbers, and loan amounts of the borrowers who are receiving a portion of the disbursement; or

(C) If the school and the lender agree, a master check from the lender to the eligible institution to a account maintained in accordance with § 688.163 by the school as trustee for the lender. A disbursement made by a master check must be accompanied by a list of the names, social security numbers, and loan amounts of the borrowers who are receiving a portion of the disbursement;

(iii) May not disburse loan proceeds earlier than is reasonably necessary to meet the student’s cost of attendance for the period for which the loan is made, and, in no case without the Secretary’s prior approval, disburse loan proceeds earlier than 30 days prior to the date on which the student is scheduled to enroll;

(iv) Shall require an escrow agent to disburse loan proceeds no later than 21 days after the agent receives the proceeds from the lender;

(v) Shall disburse—

(A) Except as provided in paragraph (b)(1)(v) (C)(1) and (D) of this section, directly to the school;

(B) In the case of a Federal PLUS loan—

(1) By electronic funds transfer or master check from the lender to the eligible institution to a account maintained in accordance with § 688.163 by the school as trustee for the lender. A disbursement made by electronic funds transfer or master check must be accompanied by a list of the names, social security numbers, and loan amounts of the borrowers who are receiving a portion of the disbursement and the names and social security numbers of the students on whose behalf the parents are borrowing.

(2) By a check from the lender that is made co-payable to the institution and the parent borrower directly to the eligible institution.

(C) In the case of a student enrolled in a study-abroad program approved for credit at the home institution in which

the student is enrolled, if the student requests—

(1) Directly to the student; or

(2) To the home institution if the borrower provides a power-of-attorney to an individual not affiliated with the institution to endorse the check or complete an electronic funds transfer authorization.

(D) In the case of a student enrolled in an eligible foreign school, if the student requests—

(1) Directly to the student; or

(2) To the institution if the borrower provides a power-of-attorney to an individual not affiliated with the institution to endorse the check or complete an electronic funds transfer authorization.

(vi) Except as provided in paragraph (d)(2) of this section, may not disburse a second or subsequent disbursement on a Stafford or SLS loan to a student who has ceased to be enrolled.

(2) Except as provided in paragraph (b)(1)(v)(C)(2) of this section, neither a lender nor a school may obtain a borrower's power of attorney or other authorization to endorse or otherwise approve the cashing of a loan check or the release of funds disbursed by electronic funds transfer, nor may a borrower provide this power of attorney or authorization to anyone else. However, the school may present the loan check to a financial institution for deposit in an account of the borrower pursuant to the borrower's written authorization under paragraph (b)(1)(ii)(A) of this section.

(c) A lender shall disburse any Stafford or PLUS loan as follows:

(1) Disbursement must be in two or more installments.

(2) No installment may exceed one-half of the loan.

(3) Disbursement must be made on a payment period basis in accordance with the disbursement schedule provided by the school.

(4) If one or more scheduled disbursements have elapsed before a lender makes a disbursement and the student is still enrolled, the lender may include in the disbursement loan proceeds for previously scheduled, but unmade, disbursements.

(5) A lender is not required to make more than one disbursement if a school is not in a State.

(d)(1) A lender may disburse loan proceeds after the student has ceased to be enrolled on at least a half-time basis.

(2) A disbursement described in paragraph (d)(1) of this section may be made—

(i)(A) Only if the school certified the loan application and the loan funds will be used to pay educational costs that the school determines the student incurred for the period in which the student was enrolled and eligible;

(B) Only if the student completed the first 30 days of his or her program of study if the student was a first-year, first time borrower as described in § 682.604(c)(5) of this section; and

(C) Only if the student graduated or successfully completed the period of enrollment for which the loan was intended, in the case of a second or subsequent disbursement.

(3) The lender shall give notice to the school that the loan proceeds have been disbursed in accordance with (d)(1) of this section at the time the lender sends the loan proceeds to the school.

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§ 682.208 Due diligence in servicing a loan.

(a) The loan servicing process includes reporting to national credit bureaus, responding to borrower inquiries, and establishing the terms of repayment.

(b)(1) An eligible lender of a FFEL loan shall report to at least one national credit bureau—

(i) The total amount of FFEL loans the lender has made to the borrower, within 90 days of each disbursement;

(ii) The outstanding balance of the loans;

(iii) Information concerning the repayment status of the loan, within 90